

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 88635-001

v

Time Insurance Company  
Respondent

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Issued and entered  
This 12<sup>th</sup> day of May 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On March 20, 2008, XXXXX, authorized representative of her daughter XXXXX (Petitioner), filed a request for an external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The request was reviewed and the Commissioner accepted it on March 20, 2008.

The Commissioner notified Time Insurance Company (Time) of the external review and requested the information used in making its adverse determination. Information from Time was provided on March 28, 2008.

Because the appeal involved medical issues, the Commissioner assigned the case to an independent review organization which provided its recommendations to the Commissioner on April 10, 2008.

**II**  
**FACTUAL BACKGROUND**

The Petitioner, who is twenty-four years old, has had chronic back and neck pain for

approximately ten years. Her doctor diagnosed her with Lyme disease and proceeded with an extended course of antibiotics. Treatment began in January 2007. (It is not clear how long the treatment continued although the records submitted indicate treatment was continuing as late as August 2007.)

Time denied coverage for the Petitioner's long term antibiotic treatment considering it to be an experimental treatment for her condition and, therefore, not medically necessary.

The Petitioner appealed. Time reviewed the claim but upheld its denial and issued a final adverse determination dated January 23, 2008.

### **III ISSUE**

Was Time correct in denying coverage for the Petitioner's long term antibiotic therapy?

### **IV ANALYSIS**

#### **Petitioner's Argument**

Petitioner says that, as a child, she would play in heavy wooded areas and fields at the tree seeding nursery that her family owned. Although she experienced repeated exposure to and attachment of ticks, one in particular stands out in her mind. The tick had attached at the upper groin left thigh area-followed with a red mark for a few days. A rash covering both thighs followed. Since that time she has suffered multiple symptoms consistent with Lyme disease.

The Petitioner sought treatment with at least seven different doctors for her back and neck pain. Finally Dr. XXXXX of XXXXX Clinic in Grand Rapids diagnosed Petitioner with Lyme disease. Dr. XXXXX indicated that Petitioner's symptoms and exposure to the ticks that cause Lyme disease led to this diagnosis. In November 2006, Dr. XXXXX prescribed long term antibiotic therapy which she estimated would last "a couple of years."

The Petitioner believes that her long term antibiotic therapy is medically necessary for her condition and is not considered experimental. She argues that Time is required to pay for this care.

### Respondent's Argument

Time asserts that its decision to deny coverage of the Petitioner's long term antibiotic therapy was correct. Time indicated it would not cover any claims for treatment after October 22, 2007.

The treatment requested was amoxicillin 1,000 milligrams four times per day, duration not specified. Time believes that this treatment is experimental or investigational.

The certificate indicates that experimental or investigational services are excluded. Experimental or Investigational services are defined in the certificate as:

Treatment that at the time the charges were incurred, we determine was:

- Not proven to be of benefit for the diagnosis or treatment of the Illness or injury,
- Not generally used or recognized by the United States medical community as safe, effective or appropriate for the Illness or Injury
- In the research or investigational stage; or
- Not generally accepted throughout the United States as we determine by reference to English language peer review literature, consultation with physicians, authoritative medical compendia, the American Medical Association and other pertinent professional medical organizations or government agencies.

Time says that the Petitioner does not have Lyme disease as documented by the records. There is no indication for treatment of Lyme disease or other infectious disease in the absence of an objective diagnosis. Even if the diagnosis of Lyme disease had been confirmed, the Petitioner has already received more than adequate treatment and further antibiotics are not warranted. Therefore, further antibiotic therapy is not medically necessary and would be considered experimental.

### Commissioner's Review

Since this case involved medical issues it was assigned to an independent review organization (IRO) to determine if the Petitioner's long term antibiotic therapy is considered experimental. The IRO provided its analysis to the Commissioner on April 10, 2008. The IRO expert reviewing this case is in active clinical practice, is board certified by the American Board of

Internal Medicine as a Diplomate in Infectious Diseases, is a member of the Infectious Disease Society of America, and is published in peer-reviewed medical literature.

The IRO expert concluded that the use of antibiotic therapy for the Petitioner after October 22, 2007 is experimental/investigational and therefore, not medically necessary. The peer-reviewed literature indicates that prolonged antibiotic therapy for seronegative chronic Lyme disease is not effective and would be considered experimental at best.

Although the Petitioner may in fact have real pain and may even have “chronic Lyme disease,” there is no evidence that prolonged antibiotic therapy is efficacious and, therefore, it is not medically necessary.

The IRO reviewer’s recommendation is based on extensive expertise and professional judgment and the Commissioner finds no reason to reject it. Therefore, the Commissioner accepts the IRO reviewer’s conclusion that the Petitioner’s long term antibiotic treatment provided after October 22, 2007 is considered experimental and not medically necessary for treatment of her condition. Therefore, based on the certificate language this care is not a covered benefit.

## **V ORDER**

The Commissioner upholds Time Insurance Company’s final adverse determination of January 23, 2008. The company is not required to provide coverage for the Petitioner’s long term antibiotic treatment after October 22, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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Ken Ross  
Commissioner